

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JOHN BROWN,

Plaintiff,

v.

TAKEUCHI MFG. CO. (U.S.), LTD., et
al.,

Defendants.

No. 2:21-CV-0392-JAM-DMC

ORDER

Plaintiff, who is proceeding with retained counsel, brings this civil action. Pending before the Court is Defendant Takeuchi Mfg. Co. (U.S.), Ltd.’s motion to compel discovery responses from Plaintiff. See ECF No. 74.

The matter has been noticed for a hearing before the undersigned in Redding, California, on January 18, 2023, at 10:00 a.m., pursuant to Eastern District of California Local Rule 251(e), which permits a discovery motion to be heard on 14 days’ notice if, as here, the dispute involves a “complete and total failure to respond to a discovery request or order.” Under Local Rule 251(e), Plaintiff’s opposition was due no later than seven days before the scheduled hearing, or by January 11, 2023. To date, Plaintiff has not filed an opposition. Given Plaintiff’s failure to oppose Defendant’s motion, the Court will vacate the January 18, 2023, hearing and

rule herein on Defendant's motion.

Here, it is unchallenged that Defendant served discovery requests, specifically requests for production of documents, set one, and special interrogatories, set one, on October 14, 2022. See ECF No. 74-2, pg. 2. It is also undisputed that, despite defense counsel's meet-and-confer efforts, Plaintiff had not served responses as of December 29, 2022 – the date Defendant originally filed its motion to compel. Pursuant to Eastern District of California Local Rule 230(c), (l), the Court construes Plaintiff's failure to oppose Defendant's motion as consent to the relief requested. Accordingly, the Court will grant Defendant's unopposed motion to compel and order Plaintiff to provide discovery responses within 30 days. Upon submission of a declaration regarding reasonable expenses, the Court will also award to Defendant reasonable expenses pursuant to Federal Rule of Civil Procedure 37(a)(5)(A).

Plaintiff is cautioned that failure to comply with this order may result in terminating sanctions under Federal Rule of Civil Procedure 37(b)(2)(A).

Accordingly, IT IS HEREBY ORDERED that:

1. The hearing scheduled for January 18, 2023, before the undersigned in Redding, California, at 10:00 a.m. is vacated;
2. The pending requests for remote appearance, ECF Nos. 78 and 79, are denied as moot;
3. Defendant's unopposed motion to compel, ECF No. 74, is granted;
4. Plaintiff shall serve responses to Defendant's requests for production of documents, set one, and special interrogatories, set one, within 30 days of the date of this order;
5. Within seven days of the date of this order, Defendant shall file a declaration as to reasonable expenses associated with its motion; and
6. Plaintiff may file a response to Defendant's declaration as to reasonable expenses within seven days of service of Defendant's declaration.

Dated: January 17, 2023


DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE